

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

11 FEDERAL TRADE COMMISSION,
12 Plaintiff,
13 v.
14 CONSUMER DEFENSE, LLC, et al.,
15 Defendants.

Case No. 2:18-cv-00030-JCM-BNW

**[PROPOSED] ORDER DISCHARGING
RECEIVER AND APPROVING
RECEIVER'S FINAL FEE
APPLICATION**

17 Before the Court is the Receiver's Application for Discharge and Approval of Final Fee
18 Application. Mr. McNamara was appointed Receiver by the Temporary Restraining Order
19 entered January 10, 2018 (ECF No. 12) and that appointment was confirmed by the Preliminary
20 Injunction entered February 20, 2018 (ECF No. 55).

21 Upon application of the Receiver and good cause appearing therefore, the Court hereby
22 ORDERS:

23 1. The Receiver's Final Report dated October 4, 2021 is hereby accepted and
24 approved.

25 2. The Receiver's Final Fee Application for the 18-month period April 1, 2020
26 through September 30, 2021, is hereby approved and the Receiver is authorized to make
27 payments as follows: \$53,641.50 fees and \$827.64 expenses to the Receiver and his staff
28 payable to TWM Receiverships, Inc. dba Regulatory Resolutions; \$83,125.00 fees and \$212.49

1 expenses to Receiver's counsel McNamara Smith LLP; and \$141.52 fees to Receiver's local
2 counsel Ballard Spahr LLP.

3 3. The Receiver is authorized to hold back a reserve of \$10,000 to cover final
4 administrative fees and costs, *e.g.*, document and electronics storage costs through resolution of
5 Sandra and Jonathan Hanley's appeal and further proceedings, if any, in this Court (the
6 "appeal"), removal and destruction of computer hard drives, and document destruction costs, and
7 may expend those funds without further order of the Court, and thereafter shall remit any
8 unexpended funds to the Federal Trade Commission.

9 4. Within five business days of entry of this Order, the Receiver shall transfer all
10 remaining funds, after deductions for the fees and expenses approved in Paragraph 2 and the
11 reserve approved in Paragraph 3, in the amount of \$968,068.42, to Plaintiff Federal Trade
12 Commission.

13 5. The Receiver shall retain any business records, including electronic media, and
14 computer hard drives, of Receivership Entities now in his possession until 90 days after
15 resolution of Sandra and Jonathan Hanley's appeal.

16 6. With regard to all customer records, defined as any records which contain
17 information provided by a consumer to obtain a financial-related good or service from the
18 Receivership Entities, information about a consumer resulting from any transaction involving a
19 financial-related good or service provided by the Receivership Entities, or information otherwise
20 obtained by Receivership Entities in connection with providing a financial-related good or
21 service to a consumer ("Customer Records"), if required to be destroyed, the Customer Records
22 will be destroyed in the following manner: (a) paper documents containing Customer Records
23 shall be shredded so that the information cannot be read or reconstructed, and (b) electronic
24 records or media containing Customer Records shall be destroyed or erased so that the
25 information cannot be read or reconstructed.

26 7. All assets not distributed or otherwise administered by the Receiver as of the
27 closing of the Receivership Estate are deemed abandoned. Abandoned assets may be destroyed
28 or discarded, without regard to title or value, in the sole and absolute discretion of the Receiver.

1 8. The acts, transactions, and actions of Thomas W. McNamara as Receiver as
2 disclosed in the pleadings filed with the Court in this matter are confirmed and approved as being
3 in the best interests of the Receivership Estate.

4 9. Thomas W. McNamara is hereby discharged as Receiver in all respects other than
5 his obligation to maintain possession of the Receivership Entities' business records until the
6 conclusion of Sandra and Jonathan Hanley's appeal.

7 10. Thomas W. McNamara is released and exonerated from all further duties,
8 liabilities, and responsibilities as Receiver other than his obligation to maintain possession of the
9 Receivership Entities' business records until the conclusion of Sandra and Jonathan Hanley's
10 appeal. Mr. McNamara and the professionals retained by him as Receiver shall have no personal
11 liability of any nature for any act, omission, or matter pertaining to the receivership.

12 11. This Court shall retain jurisdiction over any and all matters relating to the
13 Receiver, the receivership, and the Receivership Estate, including any matters relating to the
14 distribution of funds received by the Receiver in connection with his obligations as Receiver or
15 otherwise received after the receivership is closed. To the extent any dispute arises concerning
16 the Receiver's administration of the Receivership Estate or to the extent any person or entity
17 seeks to pursue or assert any claim or action against the Receiver or any agent, employee,
18 member, officer, independent contractor, attorney, or representative of the Receiver, arising out
19 of or related to this receivership, the Court shall retain jurisdiction to hear and resolve any such
20 dispute or claim.

21 12. Upon the conclusion of Sandra and Jonathan Hanley's appeal, the Receiver's
22 bond is exonerated.

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1 13. The receivership is terminated in all respects other than the Receiver's obligation
2 to maintain possession of the Receivership Entities' business records until the conclusion of
3 Sandra and Jonathan Hanley's appeal, after which all aspects of the receivership will be
4 terminated.

6 IT IS SO ORDERED.

8 | DATED this _____ day of _____, 2021.

James C. Mahan
United States District Judge